

Updated Information Digest

PUBLIC HEARING TO CONSIDER THE AIRBORNE TOXIC CONTROL MEASURE FOR EMISSIONS OF CHLORINATED TOXIC AIR CONTAMINANTS FROM AUTOMOTIVE MAINTENANCE AND REPAIR ACTIVITIES

Sections Affected: Adoption of new section 93111, title 17, California Code of Regulations (CCR), and incorporation by reference of "Air Resources Board Test Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products," adopted September 25, 1997 as last amended on September 3, 1999.

Background

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Chapter 1047, Statutes of 1983) and set forth in Health and Safety Code (HSC) sections 39650 - 39675, requires the ARB to identify and control air toxics in California. The Board identified methylene chloride (MeCl), trichloroethylene (TCE), and perchloroethylene (Perc) as toxic air contaminants (TACs) at its July 1989, October 1990, and October 1991 Board hearings, respectively. Each TAC was identified without a Board-specified threshold exposure level

Following the identification of a substance as a TAC, HSC section 39665 requires the ARB, with participation of the air pollution control and air quality management districts, and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. HSC section 39665(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability and relative efficacy of substitute products or processes of a less hazardous nature. A needs assessment for Perc was conducted from 1991 to 1993 as part of the ARB's development of the ATCM for Emissions of Perchloroethylene from Dry Cleaning Operations, August 1993 (title 17, CCR, sections 93109 and 93110). The ARB staff prepared an Initial Statement of Reasons (ISOR) for this current regulation that serves as the report on the need and appropriate degree of regulation for the two other TACs, MeCl and TCE.

Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, HSC section 39666 requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC. Since Perc, MeCl, and TCE do not have Board-specified threshold exposure levels, HSC section 39666 also requires that the ATCM be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the ATCM, state law also requires assessment of the appropriateness of substitute products or processes.

It is important to note that the ATCM is not a consumer products regulation. Consumer products regulations are developed under authority granted to the ARB by the California Clean Air Act (1998), and specifically HSC section 41712. HSC section 41712 requires the ARB to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds (VOCs) emitted by consumer products. By contrast, this ATCM was adopted under the authority granted to the ARB by Assembly Bill 1807 (The Toxic Air Contaminant Identification and Control Program) as codified in HSC sections 39650 through 39675.

However, since the automotive consumer products industry has previously been subject to regulations developed under ARB's Consumer Products Program, this ATCM and the associated rulemaking documents use the phrase "consumer products" and definitions similar to those in ARB's consumer products regulations to make the ATCM more familiar and comprehensible to consumer products manufacturers, automotive maintenance and repair (AMR) facility operators, and others who may use these products.

Description of the Proposed Regulatory Action

The ATCM will minimize emissions of Perc, MeCl, and TCE from AMR activities by regulating automotive consumer product content and usage. Specifically, the ATCM requires that brake cleaners, carburetor or fuel-injection air intake cleaners (carburetor cleaners), engine degreasers, and general purpose degreasers manufactured after June 30, 2001 and sold or intended for sale in California not contain Perc, MeCl, or TCE. The ATCM provides that a product is considered to contain Perc, MeCl, or TCE if it has one percent or more (by weight) of any one of the three TACs. This allowed content accounts for the detection limit of the prescribed test method. The ATCM also prohibits AMR facility owners and operators from using these automotive consumer products if they contain Perc, MeCl, or TCE in their facilities after December 31, 2002.

Administrative Requirements

The regulation provides manufacturers with a 12-month sell-through period for the specified Perc, MeCl, or TCE-containing automotive consumer products manufactured on or before June 30, 2001. The sell-through period ends on June 30, 2002. In addition, AMR facility owners and operators are provided 6 months from the end of the sell-through period to use chlorinated products.

For compliance purposes, manufacturers are required to display a date or date-code on the product container indicating date of manufacture and to provide the date-code key to the ARB.

Variances

The regulation is not expected to cause or result in significant economic hardship to any person or manufacturer. However, to further reduce this possibility, any person who cannot comply with the requirements of the ATCM, due to reasons beyond the person's reasonable control, may apply

in writing for a variance. The variance procedures for the ATCM closely mirror other ARB variance procedures specified in ARB regulations (see e.g., section 94514, title 17, CCR).

Test Method

Testing is necessary to determine compliance with the standards. The test method is a modification of Air Resources Board Test Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, as last amended September 3, 1999, which is incorporated by reference in section 93111(h).

Comparable Federal Regulations

There are no comparable federal regulations covering emissions from the use of automotive consumer products containing chlorinated toxic air contaminants in automotive maintenance and repair activities. Staff reviewed federal regulations governing worker safety (the requirements for cleaning asbestos brakes and the use of aerosol products in the vicinity of ignition sources) to ensure there were no conflicting provisions.